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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,464	03/07/2002	Masatoshi Yaginuma	03500.016273	2852

5514 7590 12/22/2004

FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

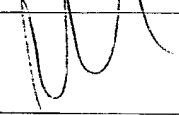
NGUYEN, PHONG H

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/091,464	Applicant(s) YAGINUMA ET AL. 	
	Examiner Phong H Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-8 and 11-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukumoto et al. (6,622,908 B2). Fukumoto et al. teach a punching device comprising a die member having a plurality of die holes 54 and 61, a plurality of punches 52 and 53, an operating member 35, a drive means and a control means. See Figs. 1, 3, 4 and 5-8. Types of cams are best seen in Figs. 1 and 5-8. The following is the operating areas with respect to Figs. 6 and 7 in the Specification:

OPERATING AREAS IN FIG. 7	LOCATION OF CAM IN FIG. 6	FUKUMOTO's OPERATING AREA
1	6A	Fig. 6b
2	6B	Fig. 6a
3	6C	Grooves at the right side of the punches 53
4	6D	Fig. 1
5	6E	Fig. 5a
6	6F	Operating member 35 moves slightly to the right from Fig. 5a.
7	6G	Fig. 5b

Response to Arguments

3. Applicant's arguments filed on 05/10/2004 have been fully considered but they are not persuasive.

Applicants' arguments with respect to an initializing operation for moving an operating member before punching are not persuasive. Applicant asserts that Fukumoto et al. do not disclose or suggest an initializing operation for moving an operating member before punching as cited in claim 1. The Examiner respectfully disagrees. Applicant does not define the initializing operation, the first rest position and the second rest position in the claim language; therefore, Fukumoto et al. read on claim 1. For example, the initializing operation can be interpreted as the operation for turning on the punching device to move the operating member from a first rest position (when the power of the punching device is off) to a second rest position (when the punching device completes punching holes on a work piece).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

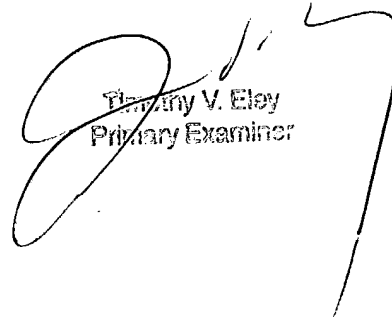
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

December 10, 2004


Timothy V. Eley
Primary Examiner